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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/550,083

08/11/2006

Marc Theisen

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NEW YORK, NY 10004

EXAMINER

PECHE, JORGE O

ART UNIT

PAPER NUMBER

3664

MAIL DATE

DELIVERY MODE

06/12/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/550,083	<b>Applicant(s)</b> THEISEN ET AL.	
	<b>Examiner</b> JORGE O. PECHE	<b>Art Unit</b> 3664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 5-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☒ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. Receipt is acknowledged of the request for continued examination and argument/remarks filed on May 12, 2008. Claims **5-10** are pending and an action on the merits is as follows.

Applicant's arguments with respect to claims **5-10** have been considered but are moot in view of the same ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims **5-10** are rejected under 35 U.S.C. 102(b) as being unpatentable over **Takaya et al. (Patent No.: 5,497,327)**.

Regarding **claim 5**, Takaya discloses a method for protecting the vehicle occupant in a vehicle collision. The method comprises the steps of:

- Activating an occupant restraint system (R) as a function of a deceleration signal (1) (see col. 3. lines 7-41; Figure 1)
- Initiating an activating process when a deceleration signal exceeds a threshold level (Go) (noise threshold) at an operation time (FT) (triggering time). A time (to) is calculated to determine the required time for a deceleration signal (g') (collision signal) to exceed the threshold level (G0),

(noise threshold). Time ( $t_0$ ) is taken into account to determine the operation time (FT) (triggering time) of an occupant restrain system. Furthermore, the time ( $t_0$ ) is calculated as a function of the input deceleration signal ( $g$ ) or deceleration sensor (1), which is proportional to a vehicle collision velocity (see abstract; col. 5, lines 4-col.6, line 20; Figures 6-7).

Regarding **claim 6**, Takaya discloses an operation timing (FT) of an occupant restraint system (R) taking into account an offset constant (see col. 5, lines 65- col. 6, line 11).

Regarding **claims 7-8**, Takaya discloses a method for calculating an operating time (triggering time) as a function of a deceleration sensor signal (collision velocity) and crash types. Furthermore, a speed collision (collision velocity) is calculated with the aid of deceleration sensor (see abstract, col.3, line 62 – col. 4, line 45; Figures 3-4).

Regarding **claims 9-10**, Takaya discloses a method for calculating an operating time (FT) (triggering time) as a function of a deceleration sensor signal (collision velocity) and crash type. A speed collision (collision velocity) is calculated with the aid of deceleration sensor (see abstract, col.3, line 62 – col. 4, line 45; Figures 3-4). Furthermore, Takaya discloses an operation timing (FT) (triggering time) of an occupant restraint system (R) taking into account an offset constant (see col. 5, lines 65- col. 6, line 11).

***Response to Argument***

Applicant's arguments filed on May 12, 2008, with respect to the rejections of **claims 5-10** under 35 U.S.C. 102(b) have been fully considered but are not persuasive.

Regarding Applicant first argument (page 4, par. 2) "It is respectfully submitted that the 'Takaya' reference does not identically disclose each and every feature of claim 5. As regards the 'calculated time required for the collision signal to exceed the noise threshold' feature of claim 5, as presented, the timed time in the cited reference does not identically disclose this claim 5 feature. In the 'Takaya' reference, the time (duration) is timed during a deceleration process until an integrated value exceeds a threshold value (see 'Takaya' Abstract, Figure 7). This is different than the calculated time required for the collision signal to exceed a noise threshold, in which the calculated time is calculated from a time function of collision velocity which is empirically determined in advance. Therefore, the time timed until the integrated value exceeds a threshold during deceleration process in the 'Takaya' reference does not identically disclose the calculated time (calculated from a predetermined function) required for the collision signal to exceed a noise threshold, as provided for in the context of claim 5, as presented." The Examiner respectfully disagrees. Applicant is kindly invited to consider the above new ground of rejection for more detail comments.

Regarding Applicant second argument (page 4, par. 3) "As regards the 'triggering time' feature of claim 5, the operating timing (FT) in the cited reference does not identically disclose the triggering time (accounted for a calculated time required for a collision signal to exceed a noise threshold), which is a time point at which the collision

signal is checked to determine if the collision signal indeed exceeds the noise threshold, at which point the collision signal may exceed the noise threshold. When the collision signal indeed exceeds the noise threshold at the triggering time, the triggering of a restraint device is initiated." The Examiner respectfully disagrees. Applicant is kindly invited to consider the above new ground of rejection for more detail comments.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jorge O. Peche whose telephone number is 571-270-1339. The examiner can normally be reached on 8:30 am - 5:30 pm Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoi H. Tran can be reached on 571-272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jorge O Peche/

Examiner, Art Unit 3664

/Khoi H Tran/

Supervisory Patent Examiner, Art Unit 3664